

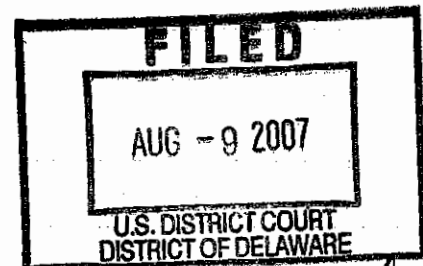
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMAS R. MILLER
Plaintiff

Civ. A. NOS. 06-349-GMS

v.
DR. MAGGIE BAILEY
FIRST CORRECTIONAL MEDICAL,
INC.

Defendants.



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MOTION FOR JUDGEMENT BY DEFAULT
AGAINST DEFENDANT FIRST CORRECT-
-IONAL MEDICAL INC; RULE 55 TO
COMPEL AN JUDGEMENT

Plaintiff now enters motion for Judgement by default against defendant, First Correctional Medical Inc; that the enclosed Motion for Judgement by default is being presented to this Honorable Court at the earliest possible convenience

Date 8-7-07

Thomas R. Miller
Thomas R. Miller
DCC
1181 Paddock Rd
SMyrna, DE 19977

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMAS R. MILLER
Plaintiff

CIV. A. NO. 06-349 GMS

V.
DR. MAGGIE BAILEY
FIRST CORRECTIONAL
MEDICAL INC;
Defendants.

MOTION FOR JUDGEMENT BY DEFAULT
TO COMPEL JUDGEMENT.

Comes now petitioner Thomas R. Miller and humbly moves this Honorable Court to enter Judgement by Default in this case pursuant to Federal Rules of Civil Procedures, Rule 55. The respondents in this case are in default for failure to answer or otherwise defend as required by law as of a Court order filed May 9, 2007 in accordance to Motion amend Complaint.

In Support of this Motion Petitioner assert the following:

- (1) The petitioner (again) states Honorable Gregory M. Sleet issued Court order on May 9, 2007 Pursuant to Supplemental Service order to Fed. R. Civ. P. 4(c)(2) and (d)(2), Plaintiff has completed and returned to the clerk of the Court an original U.S. Marshall 285 form for all the defendants.
- (2) Petitioner claims on July 7, 2007 The Amended Complaint against Warden Thomas Carroll and July 10, 2007 The First Judgement by Default was sent to First Correctional Medical.

- (3) The documents were sent back for a change of address, the documents were sent back to the new address. On the 2nd day of August 2007 again the documents were sent back to petitioner.
- (4) Petitioner claims again first Correctional Medical have not even made an attempt to respond to petitioner's complaint.
- (5) Petitioner claims first Correctional Medical is in default because they refused service more than once.
- (6) Petitioner Claims he is entitle to a Judgement by default by law according to Civ. R. 55(a) (again) due to the respondents Failure to respond and answer to the amend Complaint and the first default Judgement, ~~and~~ Judgement by default.

Default Judgement. Judgement entered against a party who has failed to defend against a claim that has been brought by another party. Under Rules of Civil Procedure, when a party against whom a Judgement for affirmative relief is sought has failed to plead (i.e. answer) or otherwise defend, he is in default and a Judgement by default may be entered either by the clerk or Court. Fed. R. Civil P. 55.

Conclusion

Wherefore Petitioner prays this Honorable Court to grant this motion and issue a Judgement by Default against respondents, to the relief in the complaint, to Compel Judgement.

Date: 8-7-07

Thomas R Miller
Thomas R Miller
DCC 1181 Indecr K Rd

Certificate of Service

I Thomas R. Miller, hereby certify that I have served a true and correct copies of the attached: Motion for Judgement by Default Civ. Action NO. 06-349-GMS upon the following party / person(s): TO COMPEL JUDGEMENT,

TO: Honorable Gregory M. Sleet
United States District Court
844 N. King Street Lock Box 19
Wilmington Delaware 19801-3570

TO: Clerk of the Court
United States District Court
844 N. King Street Lock Box 18
Wilmington Delaware 19801-3570

TO: First Correctional Medical Inc
205 W Gianconda way STE 145
Tucson AZ 85704-4350

Date: 8-7-07

I/M Thomas R. Miller
SBH# 144108 UNIT 22-A-U-5
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



TO: Office of the clerk
United States District Court
844 N. King Street Lock box 18
Wilmington Delaware
19801-3570

1980135570 0012 Legal Mail